

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
16-CA-306684	11-04-2022

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer St. Pius X Catholic School		b. Tel. No. (361)992-1343
		c. Cell No.
d. Address (Street, city, state, and ZIP code) 737 St Pius Dr., Corpus Christi, TX 78412	e. Employer Representative (b) (6), (b) (7)(C)	f. Fax No.
		g. (b) (6), (b) (7)(C) @stpiusxschoolcc.org
		h. Workers Employed
i. Type of Establishment (factory, mine, wholesaler, etc.) School	j. Identify Principal Product or Service Education	

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by threatening to discharge employees, intimidating employees, and reprimanding employees for discussing protected concerted activity and/or Union activity and in order to discourage union activities or membership.

3. Filing charge (if labor organization, give full name, including local name and number)

4a. (b) (6), (b) (7)(C)	4b. (b) (6), (b) (7)(C)
4c. (b) (6), (b) (7)(C)	4d. (b) (6), (b) (7)(C)
	4e. Pay No
	4f. (b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in by a labor organization)

(b) (6), (b) (7)(C)	statements are true to the best of my f.	T. (b) (6), (b) (7)(C)
	(b) (6), (b) (7)(C)	Office, if any, Cell No.
	Print/type name and title or office, if any)	Fax No.
	Date: _____	e. (b) (6), (b) (7)(C)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information by the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

(b) (6), (b) (7)(C)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



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January 12, 2023

(b) (6), (b) (7)(C)

ST. PIUS X CATHOLIC SCHOOL
737 ST. PIUS DR
CORPUS CHRISTI, TX 78412

Re: St. Pius X Catholic School
Case 16-CA-306684

DEAR (b) (6), (b) (7)(C)

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Examiner RYAN P. MURPHY whose telephone number is (210)417-4374. The mailing address is 615 East Houston Street, Suite 559, San Antonio, TX 78205-2039. If the agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the

confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", written in a cursive style.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosure: Copy of first amended charge

cc: MARC CERVANTES
DIOCESE OF CORPUS CHRISTI
555 N CARANCAHUA
STE 750
CORPUS CHRISTI, TX 78401

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ST. PIUS X CATHOLIC SCHOOL

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 16-CA-306684

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 12, 2023, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

ST. PIUS X CATHOLIC SCHOOL
737 ST. PIUS DR
CORPUS CHRISTI, TX 78412

MARC CERVANTES
DIOCESE OF CORPUS CHRISTI
555 N CARANCAHUA
STE 750
CORPUS CHRISTI, TX 78401

January 12, 2023

Date

Cynthia Davis, Designated Agent of NLRB

Name



Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
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November 8, 2022

(b) (6), (b) (7)(C)

Re: St. Pius X Catholic School
Case No. 16-CA-306684

DEAR (b) (6), (b) (7)(C)

The charge that you filed in this case on November 04, 2022 has been docketed as case number 16-CA-306684. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner RYAN P. MURPHY whose telephone number is (210)417-4374. The mailing address is 615 E Houston St Ste 559, San Antonio, TX 78205-2039. If this Board agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. To ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson". The signature is fluid and cursive, with a large initial "T" and a stylized "W".

TIMOTHY L. WATSON
REGIONAL DIRECTOR

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
FIRST AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
16-CA-306684	1/5/2023

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer St. Pius X Catholic School		b. Tel. No. (361) 992-1343
		c. Cell No.
d. Address (Street, city, state, and ZIP code) 737 St. Pius Drive, Corpus Christi, TX 78412	e. Employer Representative (b) (6), (b) (7)(C)	f. Fax No.
		g. e-mail (b) (6), (b) (7)(C) @stpiusxschoolcc.org
		h. Number of Workers Employed
i. Type of Establishment (factory, mine, wholesaler, etc.) School	j. Identify Principal Product or Service Education	

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the Employer threatened to discharge employees, intimidated employees, and reprimanded employees for discussing protected concerted activity and/or Union activity and in order to discourage union activities or membership.

On about (b) (6), (b) (7)(C) the Employer constructively discharged (b) (6), (b) (7)(C) in relation for (b) (6), (b) (7)(C) protected concerted activity and/or Union activity.

With the past six months, the Employer made a coercive statement in relation to discussion of terms and conditions of employment and/or unions and engaged in an impression of surveillance in violation of Section 8(a)(1) of the Act.

(b) (6), (b) (7)(C) filing charge (if labor organization, give full name, including local name and number)

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. (b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be completed only if charge is filed by a labor organization)

6. DECLARATION

(b) (6), (b) (7)(C)

I declare that the statements are true to the best of my belief.

(b) (6), (b) (7)(C)

(Printout name and title or office, if any)

1. (b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-mail (b) (6), (b) (7)(C)

Address:

(b) (6), (b) (7)(C)

Date:

1/5/2023

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
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January 12, 2023

(b) (6), (b) (7)(C)

Re: St. Pius X Catholic School
Case 16-CA-306684

DEAR (b) (6), (b) (7)(C)

We have docketed the first amended charge that you filed in this case.

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Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate. Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", with a stylized flourish at the end.

TIMOTHY L. WATSON
REGIONAL DIRECTOR



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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November 8, 2022

(b) (6), (b) (7)(C)

ST. PIUS X CATHOLIC SCHOOL
737 ST. PIUS DRIVE
CORPUS CHRISTI, TX 78412

Re: St. Pius X Catholic School
Case No. 16-CA-306684

DEAR (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner RYAN P. MURPHY whose telephone number is (210)417-4374. The mailing address is 615 East Houston Street, Suite 559, San Antonio, TX 78205-2039. If this Board agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", with a stylized flourish at the end.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-CA-306684

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (Check the largest amount):☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

ST. PIUS X CATHOLIC SCHOOL

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case No. 16-CA-306684

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on November 8, 2022, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

ST. PIUS X CATHOLIC SCHOOL
737 ST. PIUS DRIVE
CORPUS CHRISTI, TX 78412

November 8, 2022

Date

Cynthia Davis, Designated Agent of NLRB

Name

Cynthia Davis

Signature

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

St. Pius X Catholic School
and
Individual

CASE 16-CA-306684

St. Pius X Catholic School

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
St. Pius Catholic School
Roman Catholic Diocese of Corpus Christi


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Marc Cervantes	
MAILING ADDRESS: 555 N. Carancahua, Ste. 750	
Corpus Christi TX	
E-MAIL ADDRESS: mcervantes@dicoesecc.org	
OFFICE TELEPHONE NUMBER: 3618826191	
CELL PHONE NUMBER:	FAX: 3616936795
SIGNATURE: 	
DATE: ^(Please sign in ink.) Wednesday, November 16, 2022 3:30 PM Central Standard Time	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



DIOCESE OF
CORPUS CHRISTI

MEMORANDUM

Date: January 12, 2023
To: National Labor Relations Board, Region 16, Attn: Ryan Murphy
615 E Houston St. Ste. 559
San Antonio, TX 78205
From: Marc Cervantes, *General Counsel*

Re: Employer's Position on Board Jurisdiction

Dear Mr. Murphy,

I write to you as legal counsel for the Diocese of Corpus Christi and St. Pius X Catholic School ("St. Pius X School") and in connection to your request for a position statement on whether or not the National Labor Relations Board ("Board") has jurisdiction over this matter. The Board does not have jurisdiction over this matter for numerous reasons. The primary reason is that St. Pius X Catholic School is a religious church operated school owned by, governed and directed by and within the Diocese of Corpus Christi- the Roman Catholic Church. As such, as a religious nonprofit entity, religious constitutional protections are invoked that prevent the Board from exercising jurisdiction.

The Board has readily available materials to assess its jurisdictional authority in this matter. For example, the Board, on June 10, 2020, published a News & Publications article wherein it announced that it "*Declined Jurisdiction Over Faculty Over Religious Institutions.*" ***Exh. 1*** In its publication, the Board noted an applicable test for determining whether or not it has jurisdiction over religious nonprofit organizations such as St. Pius X Catholic School. In its publication, the Board recognized that when faced with jurisdictional issues related to religious nonprofits, it must examine several factors enunciated in relevant case law. The most recent and relevant case law is the case of *University of Great Falls v. NLRB*, 278 F.3d 1335 (D.C. Cir. 2002). Based on this case, and other legal principles, the NLRB has correctly concluded and expressly stated it does not have jurisdiction over employee matters at a religious nonprofit school. For example, **the NLRB, on its internet website under the Jurisdictional Standards section, specifically asserts that "the Board will not assert jurisdiction over employees who are involved in effectuating the religious purpose of the organization, such as teachers in church-operated schools."** <https://www.nlr.gov/about-nlr/rights-we-protect/the-law/jurisdictional-standards> ***Exh. 2.***

The *Great Falls* analysis or test requires the Board to consider if the following factors are present and if so, "must decline to exercise jurisdiction". The factors, with regard to the institution or the employer in this case consider whether or not the institution (a) "holds itself out to students, faculty, and community as providing a religious educational environment"; (b) is organized as a



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nonprofit”, and (c) is “affiliated with, or owned, operated, or controlled, directly, or indirectly, by a recognized religious organization, or with an entity, membership of which is determined, at least in part, with reference to religion.” As applied here, St. Pius X meets each element noted above in the Great Falls test to qualify as a religious nonprofit contemplated by *Great Falls* and as more fully set forth below.

St. Pius X Catholic School “holds itself out to students, faculty, and community as providing a religious educational environment. St. Pius X is a private Catholic school that is located at 737 St. Pius Drive in Corpus Christi Texas. It is located on the same campus as its parent church- St. Pius X Catholic Church. Its website is located on the internet at www.stpiusxschoolcc.org. The school has been in existence since 1966. Presently, it has 171 students in grades K-3 through 6th grade. See school History statement Exh.3- The school’s central focus is rooted in its Catholic- Christian identity. By way of example, its mission statement provides that the school’s mission is to develop the whole child in a Christ-centered environment to become a loving, productive citizen in today’s world. See school Mission Statement. Exh. 4. Further, the schools vision statement discusses the religious environment clearly. It provides that “Our vision for St. Pius X Catholic School is to create an environment in which gospel values are integrated into the life of our school community.” See school Vision Statement Exh. 5. St. Pius X School, at its core is a Catholic Christian organization that fosters and is based upon Catholic social teaching. It clearly holds itself out as a Catholic school by its name, by its teachings in its curriculum, throughout its history and as part of its mission and vision.

St. Pius X school is organized as a nonprofit. As mentioned previously, St. Pius School exists, and derives its nonprofit status, under the auspices of the local Roman Catholic Diocese- The Diocese of Corpus Christi. In the United States, the Roman Catholic Church is organized territorially by Dioceses which are autonomous and separately governed by various Bishops. At the same time, each Diocese exists in the United States as one group, or legal entity, known as the United States Conference of Catholic Bishops (“USCCB”). The IRS in a group ruling dated August 22, 2022, has indicated that USCCB subordinate organizations, including The Diocese of Corpus Christi and St. Pius X Catholic School are non-profit organizations insofar as they are listed in a book known as the Official Catholic Directory (“OCD”). See Group Ruling Letter – Exh.6. To that end, please find enclosed both listings of the Diocese of Corpus Christi and St. Pius X Catholics School inclusion in the 2022 OCD. See Exh. 7. See also Tax-Exempt Recognition letter from the Texas Comptroller of Public Accounts for the Diocese of Corpus Christi identifying the organization as a nonprofit. Exh. 8. Both St. Pius X Catholic School and the Diocese are clearly organized as nonprofit.

Finally, St. Pius X Catholic School is affiliated with, owned, operated, and controlled directly by a recognized religious organization- namely the Diocese of Corpus Christi which is in essence the local presence of the Roman Catholic Church- the largest Christian church in the world. The Diocese of Corpus Christi is organized and operates, in Texas, as an unincorporated nonprofit religious organization known as a “Corporation Sole.” Under this organizational framework, there is not a board of directors or board of trustees which must approve or authorize a bishop to receive,



DIOCESE OF CORPUS CHRISTI

take title to, or own stock, bonds, securities, accounts, or other intangible property. All such power is granted to the Bishop as corporation sole through his installation as Bishop of the Diocese. The Bishop of Corpus Christi is Bishop William Michael Mulvey. Thus, Bishop Mulvey alone, as the "corporation sole," has complete power of ownership, transfer, etc. of all property and affiliated entities of which he holds in trust on behalf of the Catholic Church. Ownership and title to all property, personal or real, belonging to the Diocese of Corpus Christi is held in the name of the Bishop in his capacity as Bishop of the Diocese. This includes each parish, mission, school within our Diocese including St. Pius X Catholic Church and School. **Exh. 7.**

Finally, St. Pius X Catholic School is one of several parochial schools within the Diocese of Corpus Christi – Office of Catholic Schools. The Office of Catholic Schools is overseen by the Superintendent of Catholic Schools- who is located in our Chancery (Diocesan administrative Office) of the Diocese. To that end, St. Pius X Catholic School receives, direction, guidance, and oversight from the greater Diocese of Corpus Christi.

In addition to the above, the NLRB does not have jurisdiction based on certain federal constitutional protections. These include the church's right of free exercise of religion, the establishment clause and the religious or "church" autonomy doctrine. I submit the following summary briefly below:

Federal Constitutional protection of religion – Free Exercise, Establishment Clause & Church Autonomy

The Free Exercise Clause protects citizens' right to **practice their religion as they please**, so long as the practice does not run afoul of a "public morals" or a "compelling" governmental interest. Religious liberty is given important institutional and jurisdictional protection by the Establishment Clause of the First Amendment. The U.S. Supreme Court has interpreted the Establishment Clause to mean that the government may not aid religion, unless, among other things, the purpose and primary effect of the aid are secular. Similarly, the government may not treat some religious groups more favorably, or less favorably, than others on religious grounds. *Hernandez v. C.I.R.*, 1989-2 C.B. 55, 490 U.S. 680, 704 109 S.Ct.2136.

In addition to the express protections provided by the Free Exercise and Establishment Clauses, the First Amendment also protects a third strand of cases involving "church autonomy," which refers to the right of a religious organization, such as St. Pius X Catholic School, to formulate their own beliefs and doctrines and select their own ministers and leaders, resolve their own internal disputes, and develop their own organizational structures without government interference. Church autonomy is also known as the "religious autonomy principle" and the "ecclesiastical abstention doctrine." See Bassett, Durham & Smith, *Religious Organizations and the Law* § 1:30 (2020). The NLRB should not exercise jurisdiction in this matter based on these foregoing federal protections.



DIOCESE OF CORPUS CHRISTI

Ministerial Exception Doctrine

The ministerial exception is an important application of the First Amendment and shields religious organizations from judicial review of internal employment disputes regarding selection, control and removal of employees who are designated as ministers. This doctrine was first explicitly recognized by the U.S. Supreme Court in the 2012 decision *Hosanna-Tabor Lutheran Church and School v. Equal Employment Opportunity Commission* (565 U.S. 171, 132 S.Ct. 694) and again addressed recently in the 2020 Supreme Court decision *Our Lady of Guadalupe v. Morrissey-Berru and St. James School v. Biel*. 140 S.Ct. 2049 (2020). The ministerial exception precludes any inquiry into the reasons behind a religious organization's ministerial employment decision, regardless of the type of employment law claims at issue. *Alicia-Hernandez v. Catholic Bishop of Chicago*, 320 F.3d 698, 703 (7th Cir. 2003) (Emphasis Mine).

The ministerial exception is yet another reason the NLRB must decline to assert jurisdiction in this matter. Applied here, the charging party- (b) (6), (b) (7)(C) was employed by St. Pius X Catholic Church as a (b) (6), (b) (7)(C). See (b) (6), (b) (7)(C) Employment Contract for Catholic School (b) (6), (b) (7)(C) for Parish Schools for 2022-2023. Exh.9. Note further on pg.1, Standards of the Contract that the charging party "understands and agrees that School is a ministry of the Catholic Church, and that (b) (6), (b) (7)(C) is considered part of the ministry of faith of the Catholic Church and is required to perform religious duties through and throughout his/her daily activities at School, and that (b) (6), (b) (7)(C) essential functions at School include teaching the faith and beliefs of the Catholic Church, and the duties of School and carrying out the Catholic Church's mission of ensuring the formation of faith and intellectual development illuminated by Gospel message to students through School." When a school with a religious mission entrusts a teacher with the responsibility of educating and forming students in the faith, judicial intervention into disputes between the school and the teacher threatens the school's independence in a way that the First Amendment does not allow. *Our Lady of Guadalupe v. Morrissey-Berru and St. James School v. Biel*.

Respectfully submitted,

Marc Cervantes

Marc Cervantes
General Counsel



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928

April 4, 2023

MR. MARC CERVANTES
DIOCESE OF CORPUS CHRISTI
555 NORTH CARANCAHUA, SUITE 750
CORPUS CHRISTI, TX 78401

Re: St. Pius X Catholic School
Case No. 16-CA-306684

DEAR MR. CERVANTES:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", is written over a white background.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

cc:

(b) (6), (b) (7)(C)
ST. PIUS X CATHOLIC SCHOOL
737 ST. PIUS DRIVE
CORPUS CHRISTI, TX 78412

(b) (6), (b) (7)(C)